



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

FEBRUARY 24, 2004

PRESENT: Acevedo, Benich, Engles, Escobar, Lyle, Mueller

ABSENT: Weston

LATE: None

STAFF: Planning Manager (PM) Rowe and Minutes Clerk Johnson

Chair Mueller called the meeting to order at 7:05 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Mueller opened the public hearing.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

**FEBRUARY 10,
2004**

Following the receipt of a letter from Bruce Tichinin, 17775 Monterey St., which he said would be placed on file as part of the public record. Commissioner Escobar asked if the information Mr. Tichinin wanted as corrections had been transcribed from tapes made of the meeting? Mr. Tichinin responded that the bullets in his letter were recollections of Mr. Vierra, his client. Commissioner Escobar asked if Mr. Vierra had read those bullets from a prepared statement? "No," responded Mr. Tichinin. With the consensus of the Commissioners, **CHAIR MUELLER DIRECTED THE MINUTES CLERK TO REVIEW THE TAPES OF THE FEBRUARY 10, 2004 PLANNING COMMISSION MEETING SPECIFIC TO THE SECTION OF THE MEETING UNDER QUERY. COMMISSIONERS ACEVEDO/ESCOBAR MOTIONED TO CONTINUE DELIBERATION OF THE MINUTES OF FEBRUARY 10, 2004 FOR SUBSEQUENT CONSIDERATION AT THE NEXT REGULARLY SCHEDULED**

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 2

MEETING OF THE PLANNING COMMISSIONER (MARCH 9, 2004).

It was noted that the following corrections to the February 10, 2004 minutes have been received from the Commissioners:

Opening paragraph (add) *with the discussion centering on global issues.*

Page 5 paragraph 2: ~~patroability~~ *patrolabilty*

Page 7, paragraph 3: ~~project~~ *pond*

Page 7, paragraphs 9 and 10 (insert) *segments of .. five*

Page 8, paragraph 8:by citing ~~the spring~~ *a project along Spring Ave. regarding the Open Space issue*

Page 9, paragraph 2: (add) *split, but not for any supplemental awards for FY 20004/05 and FY 2005/06.* Pg Page 9, paragraph 3: ~~moot issue as the applications on the west side are lower on the list of eligible projects. since the allotments already given, plus the~~

~~affordable project likely to get allotments, will likely satisfy the west requirement~~

Page 12, paragraph 7: (insert at end of quote) *This project needs to be reviewed for Circulation Efficiency (B 3b), and the global issues in Open Space and Parks and Paths.* Other Commissioners concurred.

Page 14, paragraph 1: (insert at end) *Of particular concern was the need to have the project reviewed for Circulation Efficiency (B 3b), and the global issues in Open Space and Parks and Paths*

OLD BUSINESS:

1) APPROVAL OF FINAL SMALL PROJECTS AND MICRO PROJECTS MEASURE "P" SCORES

PM Rowe gave the staff report, noting that discussion within the workshop prior to the February 10, 2004 Planning commission meeting had dealt with a number of global issues (those categories common to most of the projects). "The global issues," PM Rowe said, are applicable to all projects – across the board." Citing an example, PM Rowe said that the Commissioners agreed that by definition, the *small projects* would consist of those which contain fewer than 15units. The Fahmy project has only 11 units, but he also owns two adjacent parcels and the development potential of the three parcels would exceed the 15-unit maximum for a small project. MP-03-03: Watsonville-Fahmy, technically should be part of a larger project. However, PM Rowe reminded, the Commissioners said that project should be scored even though the result may be appealed.

Continuing with the *global* issues, PM Rowe noted that in the Schools category, scoring corrections had been completed on two projects: DeWitt-Latala and W. Main-Vierra, both of which had been scored incorrectly regarding crossing arterial streets (Hale Avenue and West Main Avenue).

Calling attention to criteria B3A, PM Rowe said that in detailing the awarding of points for offsite pedestrian improvements, the Commission had requested review of the criteria. PM Rowe reported the issue has been discussed with SE Creer of the Public Works Department. SE Creer ~~informed~~ *confirmed* that offsite pedestrian improvements issues can be approved/scored with a caveat stating scoring was completed based on criteria acceptable to Public Works Director.

The *Open Space* category, where park(s) provision is being considered was discussed by PM Rowe. He noted that when a park being provided is a consideration, not only is the Open Space category scored, but also affected are the Park and Lot Layout categories. This led to general dialogue with a consensus being

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 3

reached: if the application receives points for an onsite park, but not points in B.2.b, some adjustments can be made also in the *Parks and Paths* category. If a park is actually provided -or not, the application may still receive one point for *Lot Layout*.

PM Rowe said the scoring adjustments for individual projects have been completed with the scoring recommendations provided to Commissioners.

Discussion ensued regarding the preference of Commissioners for hearing the scoring, and comments from the Developers. It was decided that the Small and Micro applications would be considered separately. Chair Mueller asked if the Commissioners had scored the applications for the award of the one point to be awarded by the Commissioners in the *Quality of Construction* category. All present indicated scoring had been completed. PM Rowe called attention to the proposed resolutions, which will require award of the one point. Commissioner Lyle asked that the Commissioner's scoring be held in abeyance until the staff reports and discussions were completed.

Individual Project Adjustments

Commissioners Acevedo and Escobar were excused at 7:17p.m. due to a conflict of interest with the location of their dwellings in relation to a small project.

MP-03-03: Watsonville–Fahmy: PM Rowe highlighted the following global issues: *Open Space* (page 13 of the narrative) The private open space project is not eligible for 6 points and that was indicated on the score sheet which had been presented (19>13 points). However, PM Rowe said, these points were for paying double fees, and the application is eligible for 3 points under 3a. PM Rowe continued that another global issue is

Parks and Pathways, as he called attention to page 25 of the application. "If this application is getting points under Parks, then it cannot receive the points under b5, but the scoring could provide 3 points; however, the category is still 'maxed' out at 10 points. As he pointed out that the Commissioner's one point for Quality of Construction has yet to be awarded, PM Rowe announced the total score for this application: 160.

Chair Mueller afforded the developer an opportunity to address the scoring of the application. No representative came forward to speak.

MP-03-04: Cochrane–Borello: PM Rowe reiterated the discussion at the last meeting which added 3 points to the *Schools* category. PM Rowe explained the issue of *Open space* in this application, noting that the score had been adjusted 20>14>17 points Regarding *Parks and Pathways* PM Rowe noted there was a question of consistency: the developer is not providing a park, but an *Open Space* to be maintained through a Homeowners' Association (HOA). PM Rowe reminded that the application has received points for the amenities; but not for the park, noting that the developer has paid the required triple fees. To be determined, PM Rowe said, is the Commissioner's one point for Quality of Construction; total score: 170.

Chair Mueller invited representatives of the developer to speak. Chris Borello said his issue (3-point score adjustment in the *Open Space* category) had been addressed.

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 4

MP-03-05: Hill-Gera: PM Rowe reported in the *Schools* category, there had been a question of giving points for improvements along Hill Rd. to the south of the project, an area where the Bamdad project will provide improvements. Consequently, PM Rowe said, other improvements will be required of the applicant in-lieu of just making payments. Turning attention to other global issue, PM Rowe detailed that: "If a project is providing a park, under the *Parks/Paths* category, the project cannot be scored as not having under the Open Space category." He went on to explain that in this application an area proposed for the park is actually adjacent to the project. If the plan, PM Rowe said, is for joining adjacent homeowners' park, and even if there is annexation to the neighboring HOA, the project would still have to have an HOA to maintain buffer zone. It is questionable, PM Rowe explained because the applicant says he is not proposing a park, but indicates in other areas (of the application) that they are providing park. Therefore, PM Rowe explained, three areas of scoring are affected: *Parks, Lot Layout, And Open Space*. He gave reasons for how the categories were scored based on what the applicant indicated. PM Rowe told how the scoring was done in view of amenities already existing and how this project would interface with the existing amenities. PM Rowe then clarified, with an overview of potential and existing scoring. "So you must consider the three categories, *Open Space, Lot Layout, and Parks/Pathways*, PM Rowe stated to the Commissioners as he read from the criteria. "If a project has a park, scoring would increase in the *Lot Layout* category, but decrease in others. This is the only project where it doesn't have a park onsite, but is adding to others," PM Rowe said. "You can't have it both ways, so the Commissioners need to provide direction to staff."

Commissioner Lyle said, in his opinion, it is not a park. Commissioner Benich, read from the draft minutes of February 10, 2004, adding, "This is not a park according to the criteria and following discussion. The applicant got 1 point for the buffer under the *Natural and Environmental* category. Commissioner Lyle commented, "It is a little strip, a park, it is not – it is open space." Chair ~~Muller~~ Mueller said the project is not adding a park nor adding amenities, but combining with the neighboring HOA is a plus." Discussion then occurred regarding paying for points, and joining the neighboring HOA. Commissioner Engles also stated he did not believe the area designated to be a park. Commissioner Lyle stated a belief that the staff score correct. Commissioner Lyle asked for clarification regarding the scoring, "If it is not eligible for 6 pts, but eligible for 3 points?" PM Rowe explained that the *Lot Layout* category is eligible for 1 pt in the current scoring. Commissioner Lyle read from the criteria: "large aggregate meaningful area (page 41) which is conveniently located." He reminded that one point had been subtracted at the last meeting because of the failure to meet the criteria. Commissioner Lyle stressed that the buffer/open space area does not meet the stated criteria as it is not large enough. Commissioner Benich remarked it is convenient for home owners in the area. Commissioner Engles said he is impressed by the creativity of bringing in the adjacent HOA. "I want to give them points for that." Chair Mueller said that if the Commissioners are looking to trying to promote aggregation, a look needs to be taken at how rest of project goes together. "I lean toward giving the benefit of the doubt," he said, "and this plan didn't create a small open space in a generally unusable other area." Ultimately, all sitting Commissioners agreed that one point for the *Lot Layout* category, but that point is 'very marginal'.

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 5

Chair Mueller granted a chance for representatives of the project to speak to the scoring. Bill McClintock, P.O. Box 1029, of MH Engineering Co., said he is the Engineer for the project, but asked the applicant to address the Commissioners.

Mr. Gera (no card provided) said this is the fourth time through the Measure P competition with this project. Mr. Gera stated this is the only true infill project which will also be improving existing roads. Mr. Gera said that over half the utilities in place, and he could 'start the project now'. "My main concern," Mr. Gera indicated, "and this may not fall under the global issues, but I want the six points in the Open Space category", as he proceeded to read his reason as to why he should get the points, "mainly the HOA being joined is a benefit." Mr. Gera said he's one point behind and assured the project will not create small burdensome HOA.

This is when Commissioners turned in their scores for the one point under B.5 of the Quality of Construction category. PM Rowe tallied and announced for the one-point (totaled, averaged) Quality of Construction given as follows:

MP-03-03: Watsonville–Fahmy 65.44

MP-03-04: Cochrane–Borello 67.88

MP-03-05: Hill-Gera 68.56

Commissioner Benich asked if the projects had been scored by all four Commissioners? Ascertaining a positive answer, Commissioner Benich then suggested awarding a point to each of the top two.

Commissioner Lyle said he would almost like to see how Micros scoring came out before making a decision. "We can look at the spread and these (totaled, averaged) don't spread much. After the vote on the Micros, we may look at this spread differently. This is awfully close, all three of the totaled, averaged scores.

Commissioner Benich agreed saying, "There is not a huge difference."

Chair Mueller commented that since the Commissioners did not see any one project scores that high above others, perhaps a good suggestion would be to leave their scores where they are. He agreed that it would be critical to see the Micro project scores as completed by the Commissioners.

Commissioner Lyle observed that out of a possible 400 pts, currently there is less than a three point difference in the point spread *for the top 2 projects*.

By common agreement, the Commissioners turned to review the Micro applications. Commissioners Acevedo and Escobar rejoined the meeting at 8:05 p.m.

PM Rowe presented the staff report. In the Micro projects, he said, following the last meeting point adjustments were made as follows:

MMP-03-06: DeWitt–Latala *Schools* category: 22>21; *Quality of Construction*: 15>14 (this being the category where the Commissioner's one point can be awarded. Total: 148

No representatives of the applicant indicated a wish to be heard regarding the

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 6

scoring.

MMP-03-08: Del Monte–Giovanni *Orderly and Contiguous* category 15>16 PM Rowe informed that with a review of the scoring, it had been determined that the Police and Fire scoring had determined the project to be eligible for only .5 a point because of the location. In studying the layout for police patrols, PM Rowe told of the problems ascertained with ability to provide police patrol. PM Rowe also noted that the application states there will be expansion to Del Monte St., but staff did not award the points, as there has not been verification of the developer having the right-of-way to provide street expansion. The applicant's representative gave an overview of the proposed expansion of the streets at the last Commission meeting, saying a title search indicated an additional 330 feet of right-of-way would need to be obtained before the land extension could be completed.

Commissioner Engles left the meeting at 8:12 p.m.

Regarding the provisions for storm water detention, PM Rowe told of the plan for the underground pipe connection. PM Rowe reminded that for this scoring, the staff has said the scoring reflects the detention pond as offsite. The concern of staff, PM Rowe said, is the question as to the size and location of the detention pond. Following brief discussion at the last meeting, the Commissioners indicated they felt the application should have a point under Public Facilities, B.2.d.

Commissioner Engles returned at 8:15 p.m.

Chair Mueller asked there is sufficient information in the application regarding *Public Facilities* to make a recommendation for scoring the point? PM Rowe responded that staff is not convinced the developer can do the detention offsite.

Provided with the opportunity for presentation, the applicant's representative, Bill McClintock of MH Engineering presented the following regarding the global issues: *Schools* objection to perceived different method of scoring regarding in-lieu payment of fees on the per unit basis.

Right-of-way – pledged to work with adjoining property owners to obtain provision of right-of-way, and indicated the project will be brought back next year following receipt of such.

Commissioner Benich returned to the matter of the off-site detention facility, noting that at the last meeting, the applicant got that point.

Commissioner Acevedo said it remains unclear as to lack of effectiveness in the differing on-or-off-site detention ponds.

Commissioner Lyle said that based on the engineer's report, the project could not get allocations based on the information received, and therefore, the project was not eligible for this consideration.

Chair Mueller reiterated that the applicant needs to provide a letter from neighbors about the right-of-way, along with calculations regarding the ability of the off-site detention.

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 7

This application was deemed incomplete; therefore, even though the total score was 140, the project was not eligible.

MMP-03-09: W. Main–Vierra: PM Rowe gave the staff report with the updated scoring: In the *Schools* category, one point less for a total of 21. In the *Open Space* category, re-evaluated was concurred with existing calculations and no resultant change.

Orderly And Contiguous category: PM Rowe pointed out the commitment to open space, saying the scoring was based on how the land would ultimately be used. PM Rowe stated that the City-owned property, which is adjacent to this site, is planned for a reservoir.

Public Facilities (B2d) The off-site detention pond mitigation numbers for drainage are not adequate. Neither the location nor the calculations were explained.

Commissioner Lyle asked if the calculations had been verified by City Engineering? PM Rowe said that, generally, the staff does not explore calculations to this degree early in the application process. Turning attention to B2f, PM Rowe indicated the applicant's proposal to widen John Telfer Drive. This led to discussion that the total categories for the Micro Measure P competition are eight, not 13 as in others, so little supportive documentation is required.

Ultimately, the adjusted scoring by staff for this project was *Schools*: 22<21 and *Public Facilities* 9>10, for a total of 147.5

The applicant's representative, Bill McClintock of MH Engineering, called attention to his letter of February 5, in which more points in the *Orderly And Contiguous* category were requested. While Mr. McClintock indicated he had received no response, he said that he clearly recalled that the informational meeting more credit could be given. Mr. McClintock said that if the project is to be gated then any inconsistencies with General Plan would be moot; however, some questions remain in *Lot Layout*. Part of the clarification, in the *Public Facilities* category, he said, could be explained by the fact that staff divided by six (units), but it should have been five, as there is already one existing structure, so the project meets \$3,000 per lot requirement.

PM Rowe explained to Commissioners the methodology of staff scoring in the categories of Lot Layout and Orderly and Contiguous. Chair Mueller declared that the scoring for this application is 'exactly the same as all others'.

The Commissioners submitted their totals for the Micro projects. PM Rowe tallied and announced for the one point (totaled, averaged) Quality of Construction given as follows:

MMP-03-06: DeWitt–Latala 59.58

MMP-03-08: Del Monte–Giovanni 54.46 (It was noted that this application is not eligible because of the lack of passing Part 1.)

MMP-03-09: West Main-Vierra 55.16

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 8

By common agreement, Commissioners Lyle and Benich said the top scorer should receive the one point, with Commissioner Lyle noting a four-point spread in the Micros division. Commissioner Acevedo remarked giving the point to the top scorer 'seems reasonable and a good cut off point'.

Commissioner Engles indicated a preference to giving a point to MMP-03-08, saying he would give points to the top 2.

Commissioner Acevedo said he thought to give it to the top one (scorer) or none, but if it makes the most sense to give one to MMP-03-08, then all could get the point. It was ascertained that MMP-03-08 is not a viable project at this time.

Chair Mueller said, "Personally, I don't want to give the one point to any of them; I don't think any should particularly get the point.

Following discussion, it was decided by **CONSENSUS TO GIVE THE COMMISSIONERS ONE POINT IN THE QUALITY OF CONSTRUCTION CATEGORY TO MMP-03-06: DEWITT-LATALA, THE TOP SCORER IN THE MICRO MEASURE P COMPETITION.**

Commissioners Acevedo and Escobar were excused at 8:45 p.m. as discussion began on the Measure P Small Projects for award of the Commissioner's one-point in the *Quality of Construction* category.

Commissioner Benich said he 'sticks with his original thought: to give one point each to MP-03-04 and to MP-03-05.

Commissioner Lyle said, "Either give none or one each to the top two."

Commissioner Engles asked why split the division, 'either give to one or other' "and if I had my druthers, Id give one point to MP-03-03".

Discussion was had regarding how the one point is awarded.

Commissioner Benich declared it to be 'rational to give the one point to both, because the voting point difference is so small, we should give a point to both'.

Chair Mueller said the small point separation, causes his preference to not give the one point to anyone.

Commissioner Lyle said, "Both or none."

Commissioner Benich reiterated, "The top two."

Commissioner Engles commented he couldn't understand why the other Commissioners wanted to increase the top score, but that he would go along with it.

Chair Mueller polled the Commissioners, then said, "You three would give to a point to the top scorer" He then corrected that to say, "You two....". Commissioner Lyle corrected the Chair, saying, "That would be 2.5 votes for top two."

**PLANNING COMMISSION MEETING MINUTES
FEBRUARY 24, 2004
PAGE 9**

Chair Mueller announced the top two scores would get a point with the resultant adjusted score:

MP-03-04: Cochrane – Borello 171

MP-03-05: Hill – Gera 170

COMMISSIONER BENICH OFFERED RESOLUTION NO. 04-21a, APPROVING FINAL PROJECT SCORES IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM SMALL PROJECT COMPETITION FOR THE FISCAL YEAR 2005-2006 BUILDING ALLOTMENT, WITH THE PART 1 SCORES BEING THE SAME AS PREVIOUSLY ANNOUNCED; AND WITH THE QUALITY OF CONSTRUCTION ONE POINT BEING AWARDED TO MP-03-04 AND MP-03-0-05; AND FURTHER THAT SCORE ADJUSTMENTS FOR PART 2 AS INDICATED IN EXHIBIT B WERE ACCEPTED. COMMISSIONER LYLE MADE THE SECOND WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: BENICH, ENGLES, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO, ESCOBAR, WESTON.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 04-21b, APPROVING FINAL PROJECT SCORES IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM MICRO PROJECT COMPETITION FOR THE FISCAL YEAR 2005-2006 BUILDING ALLOTMENT, WITH THE PART 1 SCORES BEING THE SAME AS PREVIOUSLY ANNOUNCED; AND WITH THE QUALITY OF CONSTRUCTION ONE POINT BEING AWARDED TO MMP-03-06; AND FURTHER THAT SCORE ADJUSTMENTS FOR PART “B”, AS ADJUSTED IN EXHIBIT B, WERE ACCEPTED. COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: WESTON.

PM Rowe noted the applicants can appeal to the City Council for hearing on March 17, 2004. He also said the Commissioners are scheduled to talk about allocations on March 23.

**2) ZA-03-19: CITY
OF M.H.-ZONING
TEXT AMENDMENT/
COMMUNITY
ACTIVITY SIGNS**

A request to amend Title 18 of the Municipal Code to modify the sign code to allow for community activity signs and changeable copy signs for public and quasi-public uses.

PM Rowe presented the staff report, explaining that this matter had been postponed with intent for hearing at this meeting. However, Planning Staff and the City Attorney’s Office need to complete additional research on the proposed changes. Consequently, a recommendation of hearing the matter at the March 23, 2004 Planning Commission meeting was made by PM Rowe.

Chair Mueller opened the public hearing.

With no persons present indicating a wish to address the matter,
COMMISSIONERS ESCOBAR/ENGLES MOTIONED TO TABLE THE

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 10

MATTER OF ZA-03-19: CITY OF MORGAN HILL - ZONING TEXT AMENDMENT/COMMUNITY ACTIVITY SIGNS AND CHANGEABLE COPY SIGNS FOR PUBLIC AGENCIES SCHOOLS, PLAYHOUSES, AND RELIGIOUS INSTITUTIONS TO MARCH 23 2004. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: ENGLES; ABSENT: WESTON.

NEW BUSINESS:

**3) ZA-03-08/
SD-03-04/DA-03-04:
BARRETT-DITRI**

A request for approval to subdivide a 5-acre parcel into 16 single family residential lots. The parcel is located on the north side of Barrett Ave. between the Barrett Elementary School and the Jehovah's Witness Church in the R-1 (7,000) zoning district. Also requested is the approval of a precise development plan and development agreement covering the project's commitment through the Residential Development Control System.

PM Rowe gave the staff report, first describing the environmental concerns:

noise schools
open space
the gate house

PM Rowe also called attention to the development agreement, noting that revisions had been included in Exhibit B, with schedule changes noted for Resolution 04-16, (add)

**IV FY 2005-06: *Submit plans to building Division for plan check: 3-31-05* and
V. FY2005-06: Obtain Building Permits: 6-30-05
*Commence Construction: 6-30-06***

PM Rowe also stated that #3 on page 11 (Standard Conditions) should be checked.

Commissioner Escobar noted, "The park is located where it has, in part, the protection of trees, and also provides a measure of mitigation from noise from the school, but seems that noise from freeway would be greater. If one were to 'flop' the plan, the project would have four lots less adversely affected." PM Rowe responded that under the *Natural and Environmental* category, the developer pledged to preserve the trees and if this did not occur, there would be a lesser score.

Commissioner Acevedo questioned whether the park by the school would be shared with the school or be used only by residents? [Only by residents] Commissioner Acevedo clarified that there would be a gate for entry to the school.

Commissioner Lyle called attention to the issues with the gate house, and made the Commissioners aware that if the issues can't be worked out, the matter would be sent back to the Planning Commission and the City Council. Could we delegate resolution to perhaps the Community Development Director (CDD)?

Chair Mueller said such delegation could be done if it is very specific. "We can't change a contract, only the Council can," Chair Mueller said.

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 11

Discussion ensued regarding air quality, soil quality, and the contract/study done by the school.

Chair Mueller asked if the demolition should be completed at a 'non-school' time so that if anything, such as asbestos, gets airborne, the problem will be diminished. He noted his concern is safety for the students.

Commissioner Benich said that nowadays, with approved procedures for abatement of asbestos, this is not an issue.

Commissioner Escobar observed this to be a scheduling issue. It is not an economic problem for the developer, he continued by telling of work situation when potential liability is increased, adding this does not appear to be the case here.

Commissioner Acevedo indicated that if the issue is not burdensome to the developer, it should not be a problem. He told of his own individual neighborhood, describing the farmland activities. "There are no restrictions to farms," Commissioner Acevedo said. "It's no big deal as we live with it."

Commissioner Engles made it known that he has no strong feelings about the matter. He added, "The demolition shouldn't take long."

Chair Mueller opened the public hearing.

Bill McClintock, P.O. Box 1029, of MH Engineering Co., was present along with builder John Marquis, and Dan Gluhaich, the applicant of record for Measure P. Mr. McClintock said that it is indicated in the report that asbestos must be removed before demolition, but the developer is willing to complete the removal and the demolition during off hours of the schools.

Mr. McClintock then spoke on the setbacks for the duet units, saying the second story has been indicated as not meeting the setback requirement. I think this fits the multi-family zoning on the corner and it does meet the setback, so we ask for the variance

Mr. McClintock told the Commissioners that the developer has tried two times to get agreement with regard to the gate house, and has been told that the letter is 'close at hand'. Mr. McClintock said he remains optimistic.

Mr. McClintock then spoke with the Commissioners regarding what he termed the biggest issue: sound walls, noise abatement". He indicated he has been told first that a 22 foot high sound wall would be necessary. "Then we were talking about a 12 – 15 foot high wall. Now it's down to 8 – 10 feet. That would be OK, but the Jehovah's Witness Church adjoining the property is concerned that wall at the proposed location (the boundary with the project and the Jehovah's Witness Church) will bounce freeway noise back to the Jehovah's Witness Church," Mr. McClintock said, as he asked for consideration to put fence at the freeway (Highway 101), and limit the height to 8 feet. Mr. McClintock said the highway will be eventually widened by the State. Mr. McClintock asked that the project be referred to Architectural Review Board (ARB) for review.

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 12

Commissioner Escobar reiterated his question about flipping the park site, which he indicated would take four lots away from the freeway noise.

Mr. McClintock said that still would not afford enough separation and would not result in eliminating the fence, but would cause a loss of points, as the trees would have to be removed, and the school would be negatively affected.

Ronald K. Blatt, 14629 Courtney Ln., was introduced as a representative of the Jehovah's Witness Church, and spoke on the height of the wall. "We are concerned about the sound reverberating off the wall." He indicated that Jehovah's Witness Church leaders are also concerned about the location of the sound wall in relation to the setting of the Church.

In response to a question from Commissioner Escobar, Mr. Blatt said the Jehovah's Witness Church building is used a lot, explaining that three congregations use the facility, with a total of about 375 in all the congregations. Mr. Blatt concluded that a sound wall on the freeway side of the Church property would be good.

With no others indicating a wish to speak to the matter, Chair Mueller closed the public hearing.

PM Rowe said that there would not be a problem with having the demolition completed in off hours for the school. He also indicated that as to the setbacks, an exception had been allowed. PM Rowe called attention to the Open Space/Landscaping section of the application (page 7), noting this would be an appropriate place to have the Community Development Director (CDD) approval (instead of the Commission) to be alternate for the gatehouse issue.

Discussion ensued regarding the sound wall:

Commissioner Benich said he is appalled at the levels of sound, "Some are near unacceptable and with the development will get worse even without further expansion. I will not support the project the way it is. If it is approved, I would recommend the sound wall be placed on the freeway, be even higher, and as close to freeway as possible."

Commissioner Lyle said placement of the sound wall would be ideal next to the freeway, but on the Jehovah's Witness Church property. (Mr. Blatt said such proposal would have to be presented to the Elders of all three congregations, adding that he believed all would agree.)

Commissioner Escobar said he felt that proposal would be acceptable.

Commissioner Acevedo indicated his thought that the sound wall should be designed as such and to a height to bring sound levels to others in the City, as he cited projects on Dunne and Main. Commissioner Acevedo continued that some of the older subdivisions had wooden fences, with others installing double sound walls to avoid high sound walls.

Chair Mueller said that the City has also modified standards, as he related the history

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 13

of such action. He indicated agreement with putting the sound wall up next to the Jehovah's Witness meeting place. Chair Mueller also said he favors doing 'as much as possible in the houses for noise reduction'. PM Rowe said such action is included in the mitigation.

Commissioner Benich asked for specific disclosure to home buyers regarding the noise potential. "That would be fair," he said.

Chair Mueller said such disclosure is already required, 'but it would be *ok* to put it in the development agreement'.

Commissioner Lyle called to page 9 (n, 3) saying this provision should be dropped as there will be no children walking, as he said the dollars required could be put to other, better use.

Commissioner Acevedo disagreed, citing special events held at the school. "People park in dirt, so if there are sidewalks, it would afford a safe place to walk. Following further discussion, Commissioner Lyle withdrew his suggestion.

Considerable discussion was had regarding the fencing material, with Commissioners ultimately directing staff to suggest a higher upgrade for the fencing. They also noted that while schools use chain link fencing, and the City has regulations prohibiting use of that material, the schools have independent authority for such matters.

COMMISSIONERS ESCOBAR/LYLE MOTIONED ACCEPTANCE OF THE MITIGATED NEGATIVE DECLARATION. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, ESCOBAR, LYLE, MUELLER; NOES: BENICH; ABSTAIN: ENGLES; ABSENT: WESTON.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 04-15, RECOMMENDING APPROVAL OF A ZONING AMENDMENT ON A 5-ACRE PARCEL CHANGING THE ZONING DESIGNATION FROM R-1 7,000 TO R-1/RESIDENTIAL PLANNED DEVELOPMENT RPD, OVERLAY AND APPROVAL OF A PRECISE DEVELOPMENT PLAN FOR A 16-UNIT SINGLE-FAMILY RESIDENTIAL DEVELOPMENT LOCATED ON THE NORTH SIDE OF BARRETT AVENUE, 70 FT. WEST OF HIGHWAY 101, WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN. THE MOTION WAS SECONDED BY COMMISSIONER LYLE. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: BENICH; ABSTAIN: NONE; ABSENT: WESTON.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 04-16, APPROVING A 16-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION ON A 5-ACRE PRACEL LOCATED ON THE NORTH SIDE OF BARRETT AVE., APPROXIMATELY 70 FT. WEST OF HIGHWAY 101, WITH THE FINDINGS AND CONDITIONS INCLUDED WITHIN AND THE FOLLOWING MODIFICATIONS:

Standard Conditions – page 21 – Other Conditions (amend):

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 14

14. fencing proposedshall be upgraded along the west side of the project adjacent to the school.

(add)

15. The location of the sound wall shall be on the east side of the Jehovah's Witness Church property, subject to the approval of Jehovah's Witness Church officials.

16. Demolition of the existing buildings scheduled for removal shall occur during off-school hours.

THE MOTION WAS SECONDED BY COMMISSIONER LYLE. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, ENGLS. ESCOBAR, LYLE, MUELLER; NOES: BENICH; ABSTAIN: NONE; ABSENT: WESTON.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 04-17, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION, DA-03-04 FOR THE APPLICATION OF MP-02-20: BARRETT- DITRI, WITH THE FINDINGS AND CONDITIONS INCLUDED WITHIN AND INCLUSIVE OF THE FOLLOWNG MODIFICATIONS:

Paragraph 14(i), Page 7, add Subsection (xii) to read: Should the School District not approve the gate house path connection to the adjacent school, an alternative improvement must be approved by the Community Development Department.

(2nd whereas) ~~15~~ 14 (subject to determination of the second building being declared habitable)

(add):

Section 2: In the event the second dwelling is deemed habitable, one of the 2005-06 allotments will be returned to the application pool for Measure P competition.

Exhibit B:

IV (add) *FY 2005-06: Submit plans to building Division for plan check: 3-31-05 and*

*V. FY2005-06: Obtain Building Permits: 6-30-05
Commence Construction: 6-30-06*

COMMISSIONER LYLE SECONDED THE MOTION, WHICH CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, ENGLS. ESCOBAR, LYLE, MUELLER; NOES: BENICH; ABSTAIN: NONE; ABSENT: WESTON.

Chair Mueller commented there may be a need to look at the issue of sound walls in the General Plan where areas next to the freeway to determine where and how best the issue can be addressed.

**4) ZA-03-20/
SD-03-16/
DA-03-15:
E. CENTRAL-
WARMINGTON
HOMES/SOUTH**

A request for approval of a zoning amendment to R-1 (7000)/RPD, subdivision and development agreement for 26 single-family homes representing Phase IV of the Morgan Lane development on a 9.73-acre site located on the southeast side of Central Ave., between Lancia Dr. and Calle Central.

PM Rowe informed in the staff report that the public comment period on the initial study runs through tomorrow (February 25, 2004), indicating that no comments have

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 15

been received to-date. He also called attention to revisions on page 8 of the development agreement as presented.

Chair Mueller opened the public hearing.

With no one in the audience indicating a wish to speak to the matter, the public hearing was closed.

PM Rowe said, "The Mitigated Negative Declaration is recommended for approval by the City Council, assuming no comments from public arrive by tomorrow."

Commissioner Acevedo discussed uses adjacent to the property. (The operators still grow flowers on the site.) Disclosure regarding growing conditions, whether the Planning Commission can include notice of disclosure for noise, lighting, etc., which would indicate what the possibilities are of needing for further mitigation? Chair Mueller informed that the Commissioners can condition items in subdivision notification, but it is not mitigation.

Commissioner Lyle spoke on the RPD overlay, saying the RPD is for the whole place and asking if the remainder piece includes such things as open space, meandering paths, etc.

Chair Mueller wanted to know if the potential for development on the remainder is noted on the map? PM Rowe said it is not labeled as remainder in the plan, but lot 86 of the RPD could have a restriction placed on it.

COMMISSIONERS LYLE/ESCOBAR MOTIONED ACCEPTANCE OF THE MITIGATED NEGATIVE DECLARATION, ON THE CONDITION THAT NO ADVERSE COMMENTS ARE RECEIVED BY THE CLOSE OF BUSINESS FEBRUARY 25, 2004, IN THE PLANNING DEPARTMENT. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: WESTON.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 04-18, RECOMMENDING APPROVAL OF A ZONING AMENDMENT FROM R-1 (7000) RESIDENTIAL TO R1 (7000)/RPD RESIDENTIAL PLANNED DEVELOPMENT OVERLAY FOR A 9.73 ACRE LOT AND A PRECISE DEVELOPMENT PLAN FOR THE ENTIRE 28.345-ACRE MORGAN LANE RPD LOCATED ON THE NORTH AND SOUTH SIDES OF EAST CENTRAL AVENUE, WITH THE FINDINGS AND CONDITIONS AS SET FORTH. THE MOTION WAS SECONDED BY COMMISSIONER ESCOBAR AND CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: WESTON.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 04-19, APPROVING A 26-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION ON A 9.73 ACRE LOT LOCATED ON THE SOUTHEAST SIDE OF CENTRAL AVENUE BETWEEN LANCIA DRIVE AND CALLE CENTRAL

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 16

AND NORTH OF EAST MAIN STREET, WITH THE FINDINGS AND CONDITIONS SO NOTED, AND INCLUDING THE CHANGES NOTED IN THE STAFF REPORT. THE MOTION WAS SECONDED BY COMMISSIONER BENICH AND PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: WESTON.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 04-20, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION, DA-03-15, FOR 26 BUILDING ALLOTMENTS AWARDED AS PART OF APPLICATION MP-02-19: E. CENTRAL - WARMINGTON, WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN. ALSO INCLUDED WAS THE FOLLOWING ADDITION TO EXHIBIT A, 8 n i: BMR FOR SALE TO LOW INCOME PURCHASERS AND DATE CORRECTIONS TO EXHIBIT B AND PARAGRAPH M, PROPERTY OWNER AGREES TO PURCHASE ONE (1) TRANSFERABLE DEVELOPMENT CREDIT. THE MOTION WAS SECONDED BY COMMISSIONER LYLE AND CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: WESTON.

OLD BUSINESS
(CONTINUED):

**5) SDA-93-04:
SAN PEDRO-
BETPOLICE/
INSTALLATION OF
SOUND WALL FOR
THE VILLAS
SUBDIVISION**

A request to amend the condition of the subdivision map approval for a 41-unit single family residential development; the "Villas Subdivision" located on San Pablo Ct., San Benito Pl., San Gabriel Ave. and San Gabriel Ct., to allow an alternative design and placement of a sound wall fence within the existing development.

PM Rowe presented the staff report, saying although this project was originally approved as a single development, it was constructed in two phases by different developers and has two homeowner associations (HOAs). PM Rowe informed that dispute has arisen between the two HOAs regarding placement of the required sound wall. Planning staff, he said, has asked representatives to attempt resolution of the matter; however, the process has become on-going and not yet reached finalization. PM Rowe noted that once agreement has been accomplished, the matter will be returned to the Commissioners for action.

Chair Mueller opened the public hearing.

Noting no persons in attendance who wished to address the matter, **COMMISSIONERS ESCOBAR/BENICH MOTIONED TO TABLE THE MATTER, WHICH WILL BE REVISITED, FOLLOWING PUBLIC NOTIFICATION AT A DATE TO BE DETERMINED. THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT WITH WESTON ABSENT.**

PLANNING COMMISSION MEETING MINUTES

FEBRUARY 24, 2004

PAGE 17

OTHER BUSINESS:

6)COMMISSIONER(S) APPOINTMENT TO PARTICIPATE IN COYOTE VALLEY PLAN STAKEHOLDERS MEETING

In presenting the staff report, PM Rowe said the land use consultants hired by the City of San Jose to prepare the Coyote Valley Specific Plan are planning to develop meetings with key stakeholders, with the City of Morgan Hill having been so identified. Such meetings will give representatives of Morgan Hill, PM Rowe said, the ability to identify concerns and provide opportunity to discuss the project with the consultants. Noting that the meeting is tentatively scheduled for the second week of March, PM Rowe suggested that the Commissioners designate two representatives to attend the Coyote Valley Plan Stakeholders Meeting.

Commissioner Benich said he has been attending meetings concerning this matter and would like to be a member named by the Commission. Chair Mueller volunteered, and Commissioner Acevedo indicated interest. Commissioner Escobar suggested an alternate would be good. PM Rowe commented this is series of community workshops, and will be open to the public. Chair Mueller said he was interested because he is to be the fifth person on a subcommittee to plan for the ~~Southwest~~ Southeast section of the City. In the end, Commissioner Benich and Chair Mueller were named to the committee, with Commissioner Acevedo to be the second, and all were invited to attend. PM Rowe gave an overview of meeting dates, times and the workshops and plans for the Committee.

ANNOUNCEMENTS:

PM Rowe had distributed an announcement memo regarding recent City Council considerations. He called attention to the Zoning Amendment, Subdivision and Development Agreement for South County Housing, saying the Council had listened to the neighboring community and asked that the development be reduced from 12 units to 10. Planning staff will present the revisions at the March 24, 2004 Council meeting. Commissioner Lyle indicated that will free up two more allotments to be given out for FY 04-05.

Commissioners discussed attendance at the League of California Cities Planning Commissioners Institute to be held next month in Monterey, CA.

Commissioner Benich asked when the traffic work shop will be held? PM Rowe replied it is scheduled for the April 13, 2004 Commission meeting.

Chair Mueller asked when Street Standards will be studied and considered? PM Rowe responded it, too, is scheduled for the April 13, 2004 Commission meeting.

ADJOURNMENT: There being no further business, Chair Mueller adjourned the meeting at 10:15 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

